

**Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201**

**Department of the Treasury**

**Number: 201132026  
Release Date: 8/12/2011**

**Employer Identification Number:**

**Contact Person - ID Number:**

**Date: May 19, 2011**

**Contact Telephone Number:**

**LEGEND**

**UIL 4945.04-04**

X = State  
Y = School Districts

Dear :

We have considered your request for advance approval of your grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated November 12, 2010.

Our records indicate that you were recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that you are classified as a private foundation as defined in section 509(a).

You have started a program to award scholarships annually to African American residents of the State of X. The scholarships are intended to defray the costs of tuition, fees, books, and room and board. Amounts of the scholarships will be between \$1000 and \$10,000, depending on recipients' financial need. During the first year you anticipate granting between 5 and 25 scholarships. In subsequent years you anticipate granting between 25 and 100 scholarships each year, depending on the number of qualified applicants.

You indicated that you will publicize the program by mailing applications to guidance offices of eligible high schools in X. You also will submit to various newspapers throughout X an annual press release. In addition, you will send electronic correspondence to non-profit organizations that serve GED participants and provide applications materials to the X School Counselors Association for distribution through electronic means.

The applicant must be an African American male or female high school student. Each applicant must be a resident of X and reside in X for the past four consecutive years. Proof of legal residency may be required, and applicants that can not provide that proof may be rejected. Applicants should be attending (in his or her senior year) or have graduated from a public high school in X located in the Y school districts. As an alternative, the applicant may have obtained his or her high school equivalency diploma. Applicants must plan to attend, or currently attend an accredited two-year or four-year institution within the United States. Applicants must have a financial need. Applicants must have demonstrated aptitude or achievement in such areas as academic record and extracurricular activities. Applicants should have demonstrated outstanding citizenship and should be active in community affairs.

The scholarship award is contingent upon being accepted into and attending a two-year or four-year institution. Recipients may attend the college or university of their choice within the United States. Pursuing a course of study in which the college or university offers an alternative year of study outside the United States will not jeopardize the scholarship.

Applicants must submit a completed application form. They must also provide an official transcript of the applicant's secondary school record, complete to the last full marking or grading period. If the applicant has a high school equivalency diploma, a copy of the official diploma and transcript of the test scores must be provided. Applicants will provide letters of recommendation from a school counselor and one teacher covering character, attitude, academic standing, extracurricular activities and any significant reasons for consideration. Applicants also must provide letters of recommendation from two personal adult acquaintances that should describe character, attitude and any significant reasons for consideration including contributions to the community and citizenship. Each applicant also must write a letter (limited to one page) outlining his or her reasons for applying for this scholarship and should include specific examples of contributions to the community and citizenship, as well as character, attitude, academic standing, extracurricular activities and any significant reasons why the applicant should be considered. Applications, letters and materials must be mailed directly to the Selection Committee and postmarked no later than April 1<sup>st</sup> of the year for which the applicant is seeking scholarship assistance.

The selection of the scholarship recipients will be made by the Selection Committee. The Selection Committee is a three person committee consisting of your President, Secretary, and Treasurer. The committee members will change as your officers change. No relatives of the members of the Selection Committee, or of your officers, directors, or substantial contributors are eligible for scholarships under the program. You indicate that you will set forth policies and procedures that ensure that the Selection Committee members will be independent and will not be biased in their selections. The Selection Committee members will sign a conflict of interest form, and no member will be in a position to derive a private benefit, directly or indirectly, from the selection of certain potential grantees.

Applicants will be selected after due consideration and the approval by a majority vote of the Selection Committee. The Selection Committee will award points to each applicant based on the following criteria:

- Financial need (40 points)
- Level of academic success (40 points)
- Community involvement (5 points)
- Letters of recommendation (5 points)
- Personal statement letter (5 points)
- Submission of completed application postmarked by April 1<sup>st</sup> (5 Points)

The points represent the maximum number of points available in each category. Candidates receiving the highest number of points will receive the top considerations for the scholarships. Financial need will be determined by reviewing the Student Aid Report that is summarized from the information provided by the applicants on the Free Application for Federal Student Aid form which contains an Expected Family Contribution amount. The FAFSA data, EFC amount, and other pertinent financial information set forth on the scholarship application will be reviewed by the Selection Committee to determine eligibility for an award. Under special circumstances, if the information is unavailable or inadequate, the Selection Committee may determine financial need by reviewing the most recent federal tax return of an applicant's parent(s)/guardian(s).

You will announce the names of scholarship recipients by no later than August 1<sup>st</sup>. Recipients will be sent a letter to notify them of the scholarship award and advise them of the proper use of the funds.

The scholarship award will be paid directly to the institution attended by the recipient. A proof of registration form will be sent to the Bursar or Financial Aid Office before the disbursement of the award funds.

You have indicated that you may not consider it necessary to obtain reports and grade transcripts if the following conditions are met: (i) the grant is a scholarship or fellowship subject to the provisions of section 117(a) of the Internal Revenue Code and is to be used for study at an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on ; (ii) the Foundation pays the

scholarship or fellowship to the educational institution; and (iii) the educational institution agrees to use the grant funds to defray the recipient's expenses or pay funds to the recipient only if he or she is enrolled at the educational institution and his or her standing at such institution is consistent with the purposes and conditions of the grant.

You have indicated that where you receive reports or other information (including failure to submit reports after a reasonable time has elapsed from their due date) indicates that all or any part of the grant funds are not being used for the purposes intended for such grant, you will initiate an investigation. You indicated that while conducting the investigation, you will withhold further payments to the extent possible until it has been determined that no part of the grant has been used for improper purposes, and until any delinquent reports have been submitted.

You have indicated that if you determine that any part of the grant has been used for improper purposes, you will take all reasonable and appropriate steps to recover diverted grant funds or to insure the restoration of diverted funds and the dedication of other grant funds held by the grantee to the purposes being financed by the grant. These steps will include legal action unless such action would in all probability not result in the satisfaction of execution of judgment.

You have indicated that if you determine that any part of the grant has been used for improper purposes, and the grantee has not previously diverted grant funds to any use not in furtherance of a purpose specified in the grant, you will withhold further payments on the particular grant until (i) you have received the grantee's assurances that future diversions will not occur, (ii) any delinquent reports have been submitted, and (iii) you have required the grantee to take extraordinary precaution to prevent future diversions from occurring. You have indicated that if you determine that any part of the grant has been used for improper purposes and the grantee has previously diverted your grant funds, you will withhold further payment until the three conditions of the preceding sentence are met and the diverted funds are, in fact, recovered or restored.

You have indicated that in the event that a scholarship recipient withdraws or leaves the program, you will not fund that award and will ask the college or university to reimburse you, to the extent possible, any monies not used by the student.

You indicated that to renew the scholarship, the recipients are required to be in good academic standing and must be enrolled in a program leading to an Associate's or Bachelor's degree. In order to re-apply, applicants must annually submit transcripts to you directly from the college. Before a scholarship award is renewed, a report by an official from the recipient's college is required of each scholarship recipient consisting of a transcript and a short statement of the recipient's progress. Receipt of the scholarship award does not automatically result in a renewed scholarship.

You agree to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to you);
- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering your grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

We are approving your individual grant-making procedures under section 4945(g)(1) of the Code. This means scholarships granted according to these procedures will not be taxable expenditures under section 4945(d)(3) of the Code. We have determined that awards made under your procedures are scholarship or fellowship grants within the meaning of section 117(a) of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(1) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Lois G. Lerner  
Director, Exempt Organizations

Enclosures:  
Notice 437  
Redacted Letter